

Honorable Judge Brian D. Lynch
Chapter 13
Hearing Location: Vancouver
Hearing Date: October 2, 2018
Hearing Time: 1:00 p.m.

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

In re:

Aaron Joseph Velasquez, Sr
Christina Michelle Velasquez,

Debtors.

CASE NO.: 18-42811-BDL

CHAPTER 13

**OBJECTION TO CONFIRMATION
BY SETERUS, INC. AS THE
AUTHORIZED SUBSERVICER FOR
FEDERAL NATIONAL MORTGAGE
ASSOCIATION ("FANNIE MAE")**

Seterus, Inc. as the authorized servicer for Federal National Mortgage Association ("Fannie Mae") ("Creditor"), objects to confirmation of the proposed chapter 13 plan (The "Plan") of Aaron Joseph Velasquez, Sr and Christina Michelle Velasquez ("Debtors" herein). The basis for this objection is that the Plan does not comply with the provisions of Title 11, chapter 13 of the United States Bankruptcy Code and thus should not be confirmed by the Court.

I. BACKGROUND

On or about December 13, 2006, Aaron Velasquez and Christina Velasquez executed and delivered a note in favor of Sterra Pacific Mortgage Services, Inc. in the original principal amount of \$252,000.00. This Note was secured by a Deed of Trust ("Deed") encumbering real property commonly described as 5801 Northwest Cherry Street, Vancouver, WA 98663 ("Property"). Creditor is the holder of the note or services the note for the holder.

On August 16, 2018, Debtors filed for protection under Title 11, chapter 13 of the United States Code under cause number 18-42811-BDL in the above listed court.

1 The outstanding balance due on the Note as of filing is approximately \$366,137.14. As
2 of the same date the loan is contractually due for the October 1, 2017 payment.

3 The pre-petition arrears, including payments, late charges, escrow advances and accrued
4 fees and costs are approximately \$21,187.26 as will be detailed in Creditor's filed proof of claim.
5 The monthly payment due as of the September 1, 2018 was \$1,478.77.

6 **II. ARGUMENT AND AUTHORITY**

7 Under 11 U.S.C. § 1325 (a)(1) and 1322 (b)(2) a plan may not modify the rights of a
8 holder of a claim secured only by an interest in real property that is the Debtor's personal
9 residence. In the case at bar, the plan subordinates the monthly payment due Creditor to the
10 attorney fees due to the Debtor's attorney. Creditor has no objection to the Debtor's attorney
11 collecting the fee requested, but that fee should be paid concurrent with the monthly maintenance
12 payment and only prior to the accrued arrears.

13 **III. CONCLUSION**

14 For the reasons listed above, the chapter 13 plan as proposed fails to comply with the
15 requirements of United States Code Title 11. Therefore, Creditor respectfully requests the Court
16 deny confirmation of the proposed Chapter 13 plan. If the court sustains this objection and
17 denies confirmation, Creditor respectfully requests that the Court set a deadline by which an
18 amended plan is to be filed. Creditor further requests that if the Debtor does not file the
19 Amended Plan by the date imposed by the Court, that the Trustee be permitted to submit an order
20 dismissing the bankruptcy case for failure to comply with the order of the court.

21 Dated: September 17, 2018

McCarthy & Holthus, LLP

22 /s/ Lance E. Olsen

23 Lance E. Olsen, Esq. WSBA# 25130

24 Michael S. Scott WSBA# 28501

25 Attorneys for Movant

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CERTIFICATE OF SERVICE

On 9/17/2018, I served the foregoing **OBJECTION TO CONFIRMATION** on the following individuals by electronic means through the Court's ECF program:

TRUSTEE

Michael G. Malaier

ecfcomputer@chapter13tacoma.org

DEBTORS' COUNSEL

Michael B Reid

michael@reidlaw.us

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Salvador Arroyo

Salvador Arroyo

On 9/17/2018, I served the foregoing **OBJECTION TO CONFIRMATION** on the following individuals by depositing true copies thereof in the United States mail, enclosed in a sealed envelope, with postage paid, addressed as follows:

DEBTORS

Aaron Joseph Velasquez, Sr, 5801 NW Cherry St, Vancouver, WA 98663

Christina Michelle Velasquez, 5801 NW Cherry St, Vancouver, WA 98663

US TRUSTEE

700 Stewart St Ste 5103, Seattle, WA 98101

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Hue Banh

Hue Banh